



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TRG

Docket No: 5051-99

4 August 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 25 July 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that during your last enlistment you received nonjudicial punishment (NJP) on 10 April 1995 for dereliction of duty. During 1997, you received NJP on one occasion and were convicted by a summary court-martial. Your offenses were two periods of unauthorized absence totaling about 58 days and missing ship's movement. The summary court-martial sentenced you to a reduction in rate to BMSR (E-1) and 30 days of confinement. You were released from confinement on 11 September 1997.

The discharge processing documentation is not in the record. However, the DD Form 214 shows that you were issued a general discharge on 19 September 1998 by reason of misconduct. The Board could not confirm from the available documentation whether the discharge date of 19 September 1998 is correct. However, a 1997 date would have been consistent with the chronology which shows that you were released from confinement on 11 September 1997. The DD Form 214 shows that you had completed 16 years, 1 month and 9 days of active service.

In its review of your application the Board carefully considered all potentially mitigating factors such as your periods of good

service and your contention, in effect, that the command did not help you with your personal problems. The Board found that these factors and contentions were not sufficient to warrant recharacterization of the general discharge given your record of misconduct. The Board believed that you were fortunate to have been issued a general discharge since a discharge under other than honorable conditions would have been authorized because of your misconduct. The Board concluded that the general discharge was proper as issued and no change is warranted.

Concerning the 10 April 1995 NJP the Board noted that you admitted to violating the ship's safety instruction by sending a man to work aloft without the required approvals. You claim that the man was only aloft for a short period and was not in danger. You contend that the punishment imposed was too severe, since others had committed similar offenses without being punished. Given your admission of guilt, the Board could not find that the commanding officer abused his discretion when he found you guilty at the nonjudicial punishment. Your appeal of the nonjudicial punishment was denied by the general court-martial convening authority. Given the nature of the offense, the Board believed that the punishment was not too severe.

Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director